

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 884

Introduced by Senator Ashburn

January 19, 2010

~~An act to amend Section 21073.1 of the Government Code, relating to public employees' retirement.~~ *An act to amend Sections 6225, 6451, and 6459 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as amended, Ashburn. ~~Public employees' retirement: service credit.~~ *Sales and use taxes: use tax: administration.*

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. In order to facilitate the collection of the use tax, a qualified purchaser, as defined, is required to register with the State Board of Equalization and to report and pay by April 15 the use tax owed for the previous calendar year, as provided.

This bill would, instead, for tangible personal property purchased by the qualified purchaser, the storage, use, or other consumption of which became subject to the use tax during the 2009 calendar year, require a qualified purchaser to report and pay the use tax by October 15, 2010.

The bill would declare that its provisions and retroactive application serve a public purpose, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The Public Employees' Retirement Law provides a comprehensive set of rights and benefits for members of the Public Employees'~~

~~Retirement System based upon age, service credit, and final compensation. That law establishes retirement formulas, known as the Second Tier, modified First Tier, and First Tier, that are applicable to specified members of the retirement system. Under that law, a member who elects to be subject to Second Tier benefits shall be paid his or her accumulated contributions plus interest, subject to specified conditions. Under that law, effective January 1, 2000, a member who received service credit subject to Second Tier benefits may elect to become subject to First Tier benefits and contribution rates. That law requires a member who elects to become subject to First Tier benefits to deposit accumulated contributions the member withdrew while he or she was subject to Second Tier benefits, plus interest, as specified.~~

~~This bill would make a technical, and nonsubstantive change to these provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 6225 of the Revenue and Taxation Code*
- 2 *is amended to read:*
- 3 6225. (a) (1) In order to facilitate the collection of use tax
- 4 imposed by this part, a qualified purchaser shall register with the
- 5 board on a form prescribed by the board and shall set forth the
- 6 name under which the qualified purchaser transacts or intends to
- 7 transact business, the location of the qualified purchaser's place
- 8 or places of business, and other information ~~as~~ *that* the board may
- 9 require.
- 10 (b) (1) Article 1 (commencing with Section 6451) of Chapter
- 11 5 of this part shall apply to a qualified purchaser, except that a
- 12 return showing the total sales price of the tangible personal property
- 13 purchased by the qualified purchaser, the storage, use, or other
- 14 consumption of which became subject to the use tax during the
- 15 preceding calendar year, and which was not paid to a retailer
- 16 required to collect the tax or which was not paid to a retailer the
- 17 qualified purchaser reasonably believed was required to collect
- 18 the tax, shall be filed, together with a remittance of the amount of
- 19 the tax due, with the board on or before April 15.
- 20 (2) *Notwithstanding paragraph (1), with respect to calender*
- 21 *year 2009, the return described in paragraph (1), together with a*

1 *remittance of the amount of tax due, shall be filed on or before*
2 *October 15, 2010.*

3 (c) A “qualified purchaser” means a person that meets all of the
4 following conditions:

5 (1) The person is not required to hold a seller’s permit pursuant
6 to this part.

7 (2) The person is not required to be registered pursuant to
8 Section 6226.

9 (3) The person is not a holder of a use tax direct payment permit
10 as described in Section 7051.3.

11 (4) The person receives at least one hundred thousand dollars
12 (\$100,000) in gross receipts from business operations per calendar
13 year.

14 (5) The person is not otherwise registered with the board to
15 report use tax.

16 (d) This section shall not apply to the purchase of a vehicle,
17 vessel, or aircraft as defined in Article 1 (commencing with Section
18 6271) of Chapter 3.5 of this part.

19 *SEC. 2. Section 6451 of the Revenue and Taxation Code is*
20 *amended to read:*

21 6451. ~~The~~ *Except as provided in Section 6225, the taxes*
22 *imposed by this part are due and payable to the board quarterly on*
23 *or before the last day of the month next succeeding each quarterly*
24 *period.*

25 *SEC. 3. Section 6459 of the Revenue and Taxation Code is*
26 *amended to read:*

27 6459. (a) ~~The~~ *Except as provided in Section 6225, the board*
28 *for good cause may extend for not to exceed one month the time*
29 *for making any return or paying any amount required to be paid*
30 *under this part. The extension may be granted at any time provided*
31 *a request therefor is filed with the board within or prior to the*
32 *period for which the extension may be granted.*

33 Any person to whom an extension is granted shall pay, in
34 addition to the tax, interest at the modified adjusted rate per month,
35 or fraction thereof, established pursuant to Section 6591.5, from
36 the date on which the tax would have been due without the
37 extension until the date of payment.

38 (b) The board may grant an extension for more than one month
39 if both of the following conditions occur:

40 (1) A budget for the state has not been adopted by July 1.

(2) The person requesting the extension is a creditor of the state who has not been paid because of the state's failure to timely adopt a budget.

Any extension granted under this subdivision shall expire no later than the last day of the month following the month in which the budget is adopted or one month from the due date of the return or payment, whichever comes later.

Any person to whom an extension has been granted under this subdivision shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment. However, no interest shall be due on that portion of the payment equivalent to the amount due to the person from the state on the due date of the payment.

SEC. 4. The Legislature finds and declares that this act and its retroactive application are necessary to serve a public purpose by ensuring the fair and equitable treatment of taxpayers.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address problems relating to administration and collection of the use tax and to prevent undue hardship to taxpayers, it is necessary that this act take effect immediately.

~~SECTION 1. Section 21073.1 of the Government Code is amended to read:~~

~~21073.1. (a) Effective January 1, 2000, a member who elects to receive service credit under Section 21354.1, as authorized by Section 21073.7, for time during which the member received service credit subject to Section 21076 or 21077, shall deposit an amount equal to any accumulated contributions the member withdrew pursuant to Section 20737, plus the interest that would have been credited to the member's account had the contributions not been withdrawn, and any contributions the member would have made, plus an amount equal to the interest that would have been credited to those contributions, had the member not been subject to Section 21076 or 21077. This deposit shall be made by a lump sum or by installments, with interest through the completion of payments, over that period and subject to minimum payment~~

1 amounts as may be prescribed by regulations of the board.
2 Alternatively, this deposit requirement may be satisfied by an
3 actuarial equivalent reduction in the member's retirement
4 allowance.

5 (b) The board, in addition to its general rulemaking authority
6 under Section 20121, may adopt regulations that implement this
7 section. Those regulations shall be exempt from review by the
8 Office of Administrative Law. However, the board shall transmit
9 those regulations to the Office of Administrative Law for filing
10 with the Secretary of State and publication in the California Code
11 of Regulations.

12 (c) The amendments to this section enacted during the first year
13 of the 1999–2000 Regular Session are subject to the limitations
14 set forth in Section 21251.13.